

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

IN RE PET FOOD PRODUCTS
LIABILITY LITIGATION

MDL Docket No. 1850 (All Cases)

Case No. 07-2867 (NLH)

The Honorable Noel L. Hillman

**ORDER ENJOINING
SETTLEMENT CLASS MEMBERS SLEMBECKER AND DOTOLI**

UPON CONSIDERATION of the Expedited Motion of Defendants Menu Foods and The Iams Company for a Show Cause Order and the Memorandum in Support thereof [D.E. 305]; the Memorandum in Opposition to Defendants Menu Foods and The Iams Company's Order to Show Cause Why Counsel and Her Client Lois Slembecker Should Not Be Held in Contempt, for Attorneys' Fees, and to Enjoin Plaintiff from Pursuing Pending Litigation and Cross-Motion to Compel Defendants Menu Foods and The Iams Company to Include Lois Slembecker in the Distribution of the Class Settlement Fund and Deem Her Claim Filed Timely Nunc Pro Tunc and to Give Her \$58,500.00 of the Settlement Fund Due to the Circumstances of Her Situation Which Were Not Adequately Represented in the Class and Memorandum in Support thereof [D.E. 327]; the Response to Defendants Expedited Motion for Damages by William T. Anastasio [D.E. 330]; Reply Memorandum in Support of Expedited Motion to Show Case, and Memorandum in Opposition to Cross Motion of Settlement Class Member Lois Slembecker, and Response of Counsel to Settlement Class Member Cynthia Dotoli [D.E. 328]; and Reply Memorandum in Opposition to Defendants Menu Foods and The Iams Company's Order to Show Cause Why Counsel and Her Client Lois Slembecker Should Not Be Held in Contempt,

for Attorneys' Fees, and to Enjoin Plaintiff from Pursuing Pending Litigation and in Support of Cross-Motion to Compel Defendants Menu Foods and The Iams Company to Include Lois Slembecker in the Distribution of the Class Settlement Fund and Deem Her Claim Filed Timely Nunc Pro Tunc and to Give Her \$58,500.00 of the Settlement Fund Due to the Circumstances of Her Situation Which Were Not Adequately Represented in the Class [D.E. 331], the Court hereby finds that:

(1) Lois Slembecker, as a pet owner who purchased, used or obtained or whose pet consumed the Recalled Pet Food Products, is a member of the Settlement Class as defined in and approved by this Court in this Court's Order Approving Class Action Settlement, Certifying Settlement Class, Directing Entry of Final Judgment and Awarding Attorneys' Fees and Reimbursement of Expenses ("Final Approval Order") [D.E. 272].

(2) On or about November 24, 2008, Ms. Slembecker filed an action in the United States District Court for the Southern District of New York captioned Lois Slembecker v. Menu Foods, Inc. and The Iams Company, Case No. 08-CV-10217 (JAS) (the "Slembecker Case").

(3) Ms. Slembecker asserts Released Claims against Released Entities, as those terms are defined in the Final Approval Order, in the Slembecker Case.

(4) The filing and prosecution of the Slembecker Case by Ms. Slembecker and her counsel Nora Constance Marino is in violation of this Court's Final Approval Order.

(5) On April 3, 2009, Ms. Slembecker consented to withdraw the Slembecker Case.

(6) Cynthia Dotoli, as a pet owner who purchased, used or obtained or whose pet consumed the Recalled Pet Food Products, is a member of the Settlement Class as defined in and approved by this Court in this Court's Final Approval Order.

(7) On or about January 31, 2009, Ms. Dotoli filed an action the Superior Court of New Jersey, Law Division, Camden County captioned Dotoli v. Menu Foods, Inc., Docket No. L-877-09 (the "Dotoli Case").

(8) Ms. Dotoli asserts Released Claims against Released Entities, as those terms are defined in the Final Approval Order, in the Dotoli Case.

(9) The filing of the Dotoli Case by Ms. Dotoli and her counsel William Anastasio is in violation of this Court's Final Approval Order.

(10) On April 3, 2009, Ms. Dotoli consented to withdraw the Dotoli Case.

It is therefore ORDERED that

(11) Valid, due and sufficient Notice of the Settlement that complied fully with the laws of the State of New Jersey, the Federal Rules of Civil Procedure, the United States Constitution, due process and other applicable law was provided to members of the Settlement Class.

(12) Lois Slembecker is ENJOINED from prosecuting the Slembecker Case; and it is further ORDERED that

(13) Should Ms. Slembecker or her attorney Nora Constance Marino continue to prosecute the Slembecker Case, they will be in contempt of this Court's Final Approval Order; and it is further ORDERED that

(14) Cynthia Dotoli is ENJOINED from prosecuting the Dotoli Case; and it is further ORDERED that

(15) Should Ms. Dotoli or her attorney William Anastasio continue to prosecute the Dotoli Case, they will be in contempt of this Court's Final Approval Order; and it is further ORDERED that

(16) Menu Foods' and Iams' request that this Court award them fees and costs associated with enforcing this Court's Final Approval Order is DENIED without prejudice as to any renewed request by Menu Foods or Iams if Ms. Slembecker or Ms. Dotoli continues to prosecute their respective Cases, respectively; and it is further ORDERED that

(17) The Cross-Motion of Ms. Slembecker that this Court deem her Claim Form filed timely *nunc pro tunc* and order that she receive \$58,500.00 from the Settlement Fund is DENIED; provided, however, that this Order is without prejudice as to any position the Claims Administrator may take in considering an untimely Claim Form submitted by Ms. Slembecker along with any other untimely Claim Forms it may receive from Settlement Class Members; and it is further ORDERED that

(18) The request that this Court include Ms. Dotoli in the distribution of the Settlement Fund, deem her Claim Form filed timely *nunc pro tunc* and order that she receive an amount from the Settlement Fund to compensate her is DENIED; provided, however, that this Order is without prejudice as to any position the Claims Administrator may take in considering an untimely Claim Form submitted by Ms. Dotoli along with any other untimely Claim Forms it may receive from Settlement Class Members.

SO ORDERED this 20th day of April, 2009.



Noel L. Hillman
United States District Judge

At Camden, New Jersey